

176728

FOSTER MALISH BLAIR & COWAN, L.L.P.

Jennifer L. Gunter, CP  
Paralegal

ATTORNEYS AND COUNSELORS AT LAW  
A REGISTERED LIMITED LIABILITY PARTNERSHIP  
1403 WEST SIXTH STREET  
AUSTIN, TEXAS 78703  
(512) 476-8591  
FAX: (512) 477-8657  
www.fostermalish.com

WRITER'S EMAIL:  
jennifer@fostermalish.com

November 8, 2005

Via UPS 2<sup>nd</sup> Day Air

Docketing Division  
South Carolina Public Service Commission  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210


In Re: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.

Dear Sir or Madam:

Please find enclosed the original and sixteen (16) copies of **dPi Teleconnect's Original Complaint**. Please file this complaint and return a file-marked copy to this office; a self-addressed, stamped envelope is enclosed.

Thank you for your time and assistance. If you should have any questions, please do not hesitate to call.

Very truly yours,

  
Jennifer L. Gunter, CP  
Paralegal

Enclosures

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2005-358-C**

<b>In Re:</b>	)	<b>dPi Teleconnect's Original Complaint</b>
	)	
<b>dPi Teleconnect, L.L.C. v.</b>	)	
<b>BellSouth Telecommunications, Inc.</b>	)	

TO THE HONORABLE UTILITIES COMMISSION:

1. dPi Teleconnect, L.L.C. ("dPi Teleconnect," or "dPi") brings this complaint against BellSouth Telecommunications, Inc. ("BellSouth") and in support thereof, shows as follows:

**I. IDENTIFICATION OF PARTIES**

2. Complainant dPi Teleconnect, L.L.C. is a Texas corporation headquartered at 2997 LBJ Freeway, Suite 225, Dallas, Texas 75234. Designated representative for complainant is:

Christopher Malish  
Foster Malish Blair & Cowan, L.L.P.  
1403 West Sixth Street  
Austin, Texas 78703  
(512) 476-8591  
(512) 477-8657/fax  
chrismalish@fostermalish.com

3. BellSouth is an "incumbent local exchange carrier" ("ILEC") as defined by the Act. 47 U.S.C. §251(h). It is a Georgia corporation with its principal place of business in Atlanta.

**II. FACTS AND NATURE OF THE DISPUTE**

4. The parties' dispute arises under their interconnection agreement and centers on credits which are due from BellSouth to dPi Teleconnect as a result of dPi Teleconnect's reselling of services subject to BellSouth promotional discounts.
5. Among other things, dPi Teleconnect resells BellSouth's retail residential and business telephone services.

6. BellSouth has over the past months and years sold its retail services at a discount to its end users under various promotions that have lasted for more than 90 days.
7. dPi Teleconnect is entitled to purchase and resell those same services at the promotional rate, less the wholesale discount.
8. As a practical matter, dPi Teleconnect has bought these services at the regular retail rate less the resale discount, then been credited the difference between that rate and the promotional rate pursuant to “promotion credit requests.”
9. After completing an audit in 2004, dPi Teleconnect noted that BellSouth had failed to issue dPi Teleconnect with hundreds of thousands of dollars worth of promotional credits to which dPi was entitled. Promotions for which credits were due but not paid included (but may not be limited to):
  - the CREX Non-Recurring promotion;
  - the Line Connection Charge Waiver promotion;
  - the Secondary Service Charge Waiver promotion; and
  - the Two Features for Free promotion.
10. On or about September 3, 2004, dPi Teleconnect sent a request to BellSouth for these credits in an amount then totaling approximately \$479,000.00.<sup>1</sup>
11. BellSouth admitted its obligation to pay the credits to dPi Teleconnect and has repeatedly promised to issue the credits to dPi Teleconnect. BellSouth has paid similar credits to other CLECs. However, despite its promises, and its treatment of other CLECs with essentially identical claims, BellSouth has in fact refused to issue the credits to dPi, and now refuses to communicate with dPi on this issue.

---

<sup>1</sup> This figure included amounts for other BellSouth states, not just South Carolina.

12. Exhibit A shows the total amounts dPi is due from BellSouth with regards to these promotions in this state.

**III. DPI TELECONNECT'S FIRST CAUSE OF ACTION**

13. dPi is entitled to the above mentioned promotional credits on these telecommunications services its has purchased from BellSouth, and BellSouth has admitted as much. However, BellSouth nonetheless refuses to credit or pay dPi for these promotions. dPi accordingly requests that this Commission enter an order directing BellSouth to pay the credits together with interest at the contract rate.

**IV. CONCLUSION AND PRAYER FOR RELIEF**

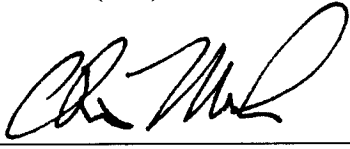
WHEREFORE, PREMISES CONSIDERED, based upon the foregoing and attachments hereto, dPi Teleconnect respectfully requests and prays that following a hearing on the merits of the issues set forth above, the Commission issue a ruling:

1. that dPi is entitled to the promotion credits it seeks to collect;
2. ordering BellSouth pay or credit dPi those amounts, plus interest at the contract rate;  
and
3. such other and further relief to which dPi may show itself entitled.

Respectfully submitted,

Foster Malish Blair & Cowan, L.L.P.  
1403 West Sixth Street  
Austin, Texas 78703  
(512) 476-8591/ (512) 477-8657/fax

By: \_\_\_\_\_

  
Christopher Malish  
State Bar No. 00791164  
Attorney for Complainant

RBOC Tracker  
Account QuickReport  
All Transactions

Accounts Receivable  
BellSouth  
Promotional  
DPI Teleconnect

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	01/08/2004	LC-SC-803-20040108	BellSouth	LC-SC-803-20040108	5,437.98	5,785.08	5,785.08
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040108		-347.10	5,437.98
Invoice	02/08/2004	LC-SC-803-20040208	BellSouth	LC-SC-803-20040208	15,262.13	17,542.68	22,980.66
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040208		-2,280.55	20,700.11
Invoice	03/08/2004	LC-SC-803-20040308	BellSouth	LC-SC-803-20040308	18,548.38	19,732.32	40,432.43
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040308		-1,183.94	39,248.49
Invoice	04/08/2004	LC-SC-803-20040408	BellSouth	LC-SC-803-20040408	12,890.42	13,427.52	52,676.01
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040408		-537.10	52,138.91
Invoice	05/08/2004	LC-SC-803-20040508	BellSouth	LC-SC-803-20040508	8,388.79	9,320.88	61,459.79
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040508		-932.09	60,527.70
Invoice	06/08/2004	LC-SC-803-20040608	BellSouth	LC-SC-803-20040608	6,839.69	7,685.04	68,212.74
Payment	05/12/2005	Direct Deposit	BellSouth	LC-SC-803-20040608		-845.35	67,367.39
Invoice	07/08/2004	LC-SC-803-20040708	BellSouth	LC-SC-803-20040708	7,276.08	7,276.08	74,643.47
Payment	08/08/2004	LC-SC-803-20040808	BellSouth	LC-SC-803-20040808	6,462.93	7,344.24	81,987.71
Invoice	05/16/2005	Direct Deposit	BellSouth	LC-SC-803-20040808		-881.31	81,106.40
Payment	09/08/2004	LC-SC-803-20040908	BellSouth	LC-SC-803-20040908	4,968.10	5,342.04	86,448.44
Invoice	05/16/2005	Direct Deposit	BellSouth	LC-SC-803-20040908		-373.94	86,074.50
Payment	10/08/2004	LC-SC-803-20041008	BellSouth	LC-SC-803-20041008	2,283.32	5,018.28	91,092.78
Invoice	05/16/2005	Direct Deposit	BellSouth	LC-SC-803-20041008		-2,734.96	88,357.82
Payment	11/08/2004	LC-SC-803-20041108	BellSouth	LC-SC-803-20041108	4,498.56	4,498.56	92,856.38
Invoice	12/08/2004	LC-SC-803-20041208	BellSouth	LC-SC-803-20041208	3,944.76	3,944.76	96,801.14
Payment	01/08/2005	LC-SC-803-20050108	BellSouth	LC-SC-803-20050108	2,624.16	2,624.16	99,425.30
Invoice	02/08/2005	LC-SC-803-20050208	BellSouth	LC-SC-803-20050208	4,368.54	4,368.54	103,793.84
Invoice	03/08/2005	LC-SC-803-20050308	BellSouth	LC-SC-803-20050308	4,747.89	4,747.89	108,541.73
Invoice	04/08/2005	LC-SC-803-20050408	BellSouth	LC-SC-803-20050408	3,442.08	3,442.08	111,983.81
Invoice	05/08/2005	LC-SC-803-20050508	BellSouth	LC-SC-803-20050508	3,557.19	3,557.19	115,541.00
Invoice	06/08/2005	LC-SC-803-20050608	BellSouth	LC-SC-803-20050608	2,533.53	2,533.53	118,074.53
Invoice	07/08/2005	LC-SC-803-2	BellSouth	LC-SC-803-20050708	2,656.02	2,656.02	120,730.55
Total LC South Carolina					120,730.55		
Invoice	10/08/2003	SS-SC-803-20031008	BellSouth	SS-SC-803-20031008		151.98	120,882.53
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20031008		-151.98	120,730.55
Invoice	11/08/2003	SS-SC-803-20031108	BellSouth	SS-SC-803-20031108		201.15	120,931.70
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20031108		-201.15	120,730.55
Invoice	12/08/2003	SS-SC-803-20031208	BellSouth	SS-SC-803-20031208		178.80	120,909.35
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20031208		-178.80	120,730.55
Invoice	01/08/2004	SS-SC-803-20040108	BellSouth	SS-SC-803-20040108		116.22	120,846.77
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040108		-116.22	120,730.55
Invoice	02/08/2004	SS-SC-803-20040208	BellSouth	SS-SC-803-20040208		169.86	120,900.41
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040208	196.68	-169.86	120,730.55
Invoice	03/08/2004	SS-SC-803-20040308	BellSouth	SS-SC-803-20040308		196.68	120,927.23
Payment	04/08/2004	SS-SC-803-20040408	BellSouth	SS-SC-803-20040408		272.67	121,199.90
Invoice	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040408		-272.67	120,927.23
Payment	05/08/2004	SS-SC-803-20040508	BellSouth	SS-SC-803-20040508		210.09	121,137.32

EXHIBIT  
A

RBOC Tracker  
Account QuickReport  
All Transactions

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040508		-210.09	120,927.23
Invoice	06/08/2004	SS-SC-803-20040608	BellSouth	SS-SC-803-20040608		183.27	121,110.50
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040608		-183.27	120,927.23
Invoice	07/08/2004	SS-SC-803-20040708	BellSouth	SS-SC-803-20040708		286.08	121,213.31
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040708		-286.08	120,927.23
Invoice	08/08/2004	SS-SC-803-20040808	BellSouth	SS-SC-803-20040808		259.26	121,186.49
Payment	01/11/2005	Direct Deposit	BellSouth	SS-SC-803-20040808		-259.26	120,927.23
Invoice	09/08/2004	SS-SC-803-20040908	BellSouth	SS-SC-803-20040908		192.21	121,119.44
Payment	05/18/2005	Direct Deposit	BellSouth	SS-SC-803-20040908		-192.21	120,927.23
Invoice	10/08/2004	SS-SC-803-20041008	BellSouth	SS-SC-803-20041008		138.57	121,065.80
Payment	05/18/2005	Direct Deposit	BellSouth	SS-SC-803-20041008		-138.57	120,927.23
Invoice	11/08/2004	SS-SC-803-20041108	BellSouth	SS-SC-803-20041108		138.57	121,065.80
Payment	05/18/2005	Direct Deposit	BellSouth	SS-SC-803-20041108		-138.57	120,927.23
Invoice	12/08/2004	SS-SC-803-20041208	BellSouth	SS-SC-803-20041208	102.81	102.81	121,030.04
Invoice	01/08/2005	SS-SC-803-20050108	BellSouth	SS-SC-803-20050108	107.28	107.28	121,137.32
Invoice	04/08/2005	SS-SC-803-20050408	BellSouth	SS-SC-803-20050408	317.37	317.37	121,454.69
Invoice	05/08/2005	SS-SC-803-20050508	BellSouth	SS-SC-803-20050508	183.27	183.27	121,637.96
Invoice	06/08/2005	SS-SC-803-20050608	BellSouth	SS-SC-803-20050608	156.45	156.45	121,794.41
Invoice	07/08/2005	SS-SC-803-2	BellSouth	SS-SC-803-20050708	134.10	134.10	121,928.51
Total SS South Carolina						1,197.96	
Invoice	11/08/2003	TF-SC-803-20031108	BellSouth	TF-SC-803-20031108		160.29	122,088.80
Payment	05/17/2005	Direct Deposit	BellSouth	TF-SC-803-20031108		-160.29	121,928.51
Invoice	12/08/2003	TF-SC-803-20031208	BellSouth	TF-SC-803-20031208		308.26	122,236.77
Payment	05/17/2005	Direct Deposit	BellSouth	TF-SC-803-20031208		-308.26	121,928.51
Invoice	01/08/2004	TF-SC-803-20040108	BellSouth	TF-SC-803-20040108		478.29	122,406.80
Payment	05/17/2005	Direct Deposit	BellSouth	TF-SC-803-20040108		-478.29	121,928.51
Invoice	02/08/2004	TF-SC-803-20040208	BellSouth	TF-SC-803-20040208		1,041.38	122,969.89
Payment	05/17/2005	Direct Deposit	BellSouth	TF-SC-803-20040208		-1,041.38	121,928.51
Invoice	03/08/2004	TF-SC-803-20040308	BellSouth	TF-SC-803-20040308		1,423.84	123,352.35
Payment	05/17/2005	Direct Deposit	BellSouth	TF-SC-803-20040308		-1,423.84	121,928.51
Invoice	04/08/2004	TF-SC-803-20040408	BellSouth	TF-SC-803-20040408		1,187.27	123,115.78
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040408		-1,187.27	121,928.51
Invoice	05/08/2004	TF-SC-803-20040508	BellSouth	TF-SC-803-20040508		1,013.87	122,942.38
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040508		-1,013.87	121,928.51
Invoice	06/08/2004	TF-SC-803-20040608	BellSouth	TF-SC-803-20040608		708.12	122,636.63
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040608		-708.12	121,928.51
Invoice	07/08/2004	TF-SC-803-20040708	BellSouth	TF-SC-803-20040708		602.12	122,530.63
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040708		-602.12	121,928.51
Invoice	08/08/2004	TF-SC-803-20040808	BellSouth	TF-SC-803-20040808		520.26	122,448.77
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040808		-520.26	121,928.51
Invoice	09/08/2004	TF-SC-803-20040908	BellSouth	TF-SC-803-20040908		539.38	122,467.89
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20040908		-539.38	121,928.51
Invoice	10/08/2004	TF-SC-803-20041008	BellSouth	TF-SC-803-20041008		602.12	122,530.63
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20041008		-602.12	121,928.51
Invoice	11/08/2004	TF-SC-803-20041108	BellSouth	TF-SC-803-20041108		530.43	122,458.94
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20041108		-530.43	121,928.51
Invoice	12/08/2004	TF-SC-803-20041208	BellSouth	TF-SC-803-20041208	21.20	488.03	122,416.54
Payment	05/18/2005	Direct Deposit	BellSouth	TF-SC-803-20041208		-488.03	121,949.71

RBOC Tracker  
Account QuickReport  
All Transactions

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	01/08/2005	TF-SC-803-20050108	BellSouth	TF-SC-803-20050108	477.43	477.43	122,427.14
Invoice	02/08/2005	TF-SC-803-20050208	BellSouth	TF-SC-803-20050208	531.29	531.29	122,958.43
Invoice	03/08/2005	TF-SC-803-20050308	BellSouth	TF-SC-803-20050308	615.66	615.66	123,574.09
Invoice	04/08/2005	TF-SC-803-20050408	BellSouth	TF-SC-803-20050408	587.31	587.31	124,161.40
Invoice	05/08/2005	TF-SC-803-20050508	BellSouth	TF-SC-803-20050508	614.40	614.40	124,775.80
Invoice	06/08/2005	TF-SC-803-20050608	BellSouth	TF-SC-803-20050608	648.27	648.27	125,424.07
Invoice	07/08/2005	TF-SC-803-2	BellSouth	TF-SC-803-20050708	178.20	178.20	125,602.27
Invoice	07/08/2005	TF-SC-803-2	BellSouth	TF-SC-803-20050708	94.19	94.19	125,696.46
Invoice	07/08/2005	TF-SC-803-2	BellSouth	TF-SC-803-20050708	228.09	228.09	125,924.55
Total TF South Carolina					3,996.04		
Total DPI Teleconnect					125,924.55	125,924.55	125,924.55
Total Promotional					125,924.55	125,924.55	125,924.55
Total BellSouth					125,924.55	125,924.55	125,924.55
Total Accounts Receivable					125,924.55	125,924.55	125,924.55
TOTAL					125,924.55	125,924.55	125,924.55